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8 UNITED STATES DISTRICT COURT
9 FOR THE WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 CAROL COOPER, individually and on behalf of
12 all others similarly situated,

13 Plaintiff,

14 v.

15 AMAZON.COM, INC., a Delaware corporation,
16 and AMAZON.COM SERVICES, LLC, a
17 Delaware limited liability company,

18 Defendants.

NO.

CLASS ACTION COMPLAINT

JURY DEMANDED

19 **CLASS ACTION COMPLAINT**

20 Plaintiff, Carol Cooper, on behalf of herself and all others similarly situated, for her
21 Class Action Complaint against Defendants Amazon.com, Inc., and Amazon.com Services,
22 LLC (collectively, "Amazon"), states as follows:

23 **PARTIES**

- 24 1. Plaintiff is an Illinois citizen residing in Madison County, Illinois.
- 25 2. Defendant Amazon.com, Inc. is a Delaware corporation with its principal place
26 of business located in Washington.

3. Defendant Amazon.com Services, LLC is a Delaware limited liability company with its principal place of business located in Washington.¹

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d). Because Plaintiff and Defendants are citizens of different states, there is minimal diversity. The total claims of Class Members exceed \$5,000,000 exclusive of interest and costs. There are at least 100 Class Members.

5. This Court has personal jurisdiction over Defendants because they have their principal place of business in Washington and are, therefore, citizens of Washington.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because Defendants reside in this district and are residents of the State in which the district is located.

NATURE OF THE ACTION

7. This claim involves Illinois’ Biometric Information Privacy Act, 740 ILCS 14/1 *et seq.* (“BIPA”), a law that regulates companies that collect, store, and use Illinois citizens’ biometric data, such as fingerprints, scans of face geometry, and voiceprints, and information derived therefrom.

8. Amazon is the world's leading e-commerce platform, with net sales of \$280 billion in 2019. Of that \$280 billion, \$193 billion was from the United States alone.²

9. According to James Marcus, an early employee of Amazon who became senior editor of Amazon.com: “It was made clear from the beginning that data collection was also one

¹ Defendants Amazon.com Inc. and Amazon.com Services LLC are collectively referred to herein as “Amazon.”

² Form 10-K, Amazon.com, Inc., *available at* <https://www.sec.gov/ix?doc=/Archives/edgar/data/1018724/000101872420000004/amzn->

1 of Amazon's businesses. All customer behavior that flowed through the site was recorded and
2 tracked. And that itself was a valuable commodity.”³

3 10. Amazon provides many services using its “Alexa” voice-based virtual assistant.

4 11. Alexa is embedded in many devices, ranging from Amazon's own Echo “smart”
5 speakers and Fire tablets, to many other “smart” items made by other companies. Currently,
6 Alexa is integrated into and compatible with over 100,000 products, such as phones, TVs,
7 thermostats, ovens, lights, locks, rings, light bulbs, headphones, and automobiles.⁴
8

9 12. After a user speaks to an Alexa device, Amazon collects, captures, or otherwise
10 obtains, and subsequently stores voiceprints of the user, and transcriptions of the voiceprints.

11 13. These voiceprints and transcriptions constitute “biometric identifiers” and/or
12 “biometric information” regulated by BIPA, and over the past five years, Amazon has violated
13 Plaintiff and the Class Members rights under BIPA, on numerous occasions, by, *inter alia*:

- 14 • systematically and intentionally collecting, obtaining, using
15 and/or storing biometric identifiers and/or biometric
16 information without first obtaining the written release
17 executed by Plaintiff and Class Members required by 740
18 ILCS 14/15(b)(3);
- 19 • not properly informing Plaintiff and Class Members in writing
20 that their biometric identifiers and/or biometric information
21 was being collected and/or stored as required by 740 ILCS
22 14/15(b)(1);
- not informing Plaintiff and Class Members in writing of the
specific purpose and length of term for which her biometric

23 [20191231x10k.htm#s0EE73FEFBB6A5BD49E6C88DF6043F8A5](https://www.pbs.org/wgbh/frontline/film/amazon-empire/transcript/).

24 ³ PBS Frontline, *Amazon Empire: The Rise and Reign of Jeff Bezos* (hereafter “PBS
25 Frontline”), transcript available at [https://www.pbs.org/wgbh/frontline/film/amazon-
empire/transcript/](https://www.pbs.org/wgbh/frontline/film/amazon-empire/transcript/) (last visited June 24, 2021) [hereinafter PBS Frontline].

26 ⁴ Cinnamon Janzer, et al., *Everything that Works with Amazon Echo and Alexa* (Updated May
8, 2019), [https://www.reviewed.com/smarthome/features/everything-that-works-with-amazon-
echo-alexa](https://www.reviewed.com/smarthome/features/everything-that-works-with-amazon-echo-alexa); see also PBS Frontline.

1 identifiers and/or biometric information was being collected,
2 stored, and used as required by 740 ILCS 14/15(b)(2);

- 3 • not developing and making available a written policy
4 establishing a retention schedule and guidelines for
5 permanently destroying biometric identifiers and/or biometric
6 information as required by 740 ILCS 14/15(a);
- 7 • selling, leasing, trading, or otherwise profiting from Plaintiff's
8 and Class Members' biometric identifiers and/or biometric
9 information in violation of 740 ILCS 14/15(c);
- 10 • disclosing, redisclosing, or otherwise disseminating Plaintiff's
11 and Class Members' biometric identifiers and/or biometric
12 information to third parties, without satisfying the
13 requirements of 740 ILCS 14/15(d)(1)-(4);
- 14 • not storing, transmitting, and/or protecting from disclosure
15 Plaintiff's and Class Members' biometric identifiers and/or
16 biometric information using the reasonable standard of care
17 within the industry, in violation of 740 ILCS 14/15(e)(1);
18 and/or
- 19 • not storing, transmitting, and/or protecting from disclosure
20 Plaintiff's and Class Members' biometric identifiers and/or
21 biometric information in a manner that is the same as or more
22 protective than the manner in which Amazon stores, transmits,
23 and protects other confidential and sensitive information, in
24 violation of 740 ILCS 14/15(e)(2).

25 14. Accordingly, Plaintiff seeks to represent a class of similarly situated individuals
26 to obtain an Order: (A) awarding Plaintiff and each Class Member statutory damages of \$5,000
for each willful and/or reckless violation of BIPA pursuant to 740 ILCS 14/20(2), or, in the
alternative, statutory damages of \$1,000 for each negligent violation of BIPA pursuant to 740
ILCS 14.20(1); (B) enjoining Amazon from collecting, obtaining, storing, using, selling,
leasing, trading, profiting from, disclosing, redisclosing, or otherwise disseminating Plaintiff's
and the Class Members' biometric identifiers and biometric information until done so in
compliance with BIPA; (C) awarding Plaintiff and the Class Members reasonable attorneys'

1 fees, costs, and other expenses pursuant to 740 ILCS 14/20(3); (D) awarding Plaintiff and the
2 Class Members pre-and post-judgment interest, as provided by law; and (E) awarding such
3 other and further relief as is just and appropriate.

4 **Illinois' Biometric Information Privacy Act**

5 15. The Illinois General Assembly enacted the Biometric Information Privacy Act,
6 740 ILCS 14/*et seq.* ("BIPA") in 2008 to establish standards of conduct for private entities that
7 collect or possess biometric identifiers and biometric information.
8

9 16. The Illinois General Assembly noted that BIPA was carefully crafted to protect
10 biometric data because "unlike other unique identifiers that are used to access finances or other
11 sensitive information," one's own biometric information cannot be changed; "[t]herefore, once
12 compromised, the individual has no recourse, is at heightened risk for identity theft, and is
13 likely to withdraw from biometric-facilitated transactions." 740 ILCS 14/5.
14

15 17. "Biometric identifiers" covered by BIPA include retina or iris scans,
16 fingerprints, voiceprints, and scans of human or face geometry, none of which can be changed
17 if compromised. 740 ILCS 14/10.

18 18. "Biometric information" covered by BIPA includes "any information, regardless
19 of how it is captured, converted, stored, or shared, based on an individual's biometric identifier
20 used to identify an individual." *Id.*

21 19. BIPA makes it unlawful for any private entity to, *inter alia*, "collect, capture,
22 purchase, receive through trade, or otherwise obtain a person's or a customer's biometric
23 identifier or biometric information unless it first: (1) informs the subject . . . in writing that a
24 biometric identifier or biometric information is being collected or stored; (2) informs the
25 subject . . . in writing of the specific purpose and length of term for which a biometric identifier
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1 or biometric information is being collected, stored, and used; and (3) receives a written release
2 executed by the subject of the biometric identifier or biometric information” 740 ILCS
3 14/15(b).

4 20. Furthermore, BIPA requires that any “private entity in possession of biometric
5 identifiers or biometric information must develop a written policy, made available to the public,
6 establishing a retention schedule and guidelines for permanently destroying biometric
7 identifiers and biometric information when the initial purpose for collecting or obtaining such
8 identifiers or information has been satisfied or within 3 years of the individual’s last interaction
9 with the private entity, whichever occurs first.” 740 ILCS 14/15(a).

11 21. BIPA also provides that “[n]o private entity in possession of a biometric
12 identifier or biometric information may sell, lease, trade, or otherwise profit from a person’s or
13 a customer’s biometric identifier or biometric information.” 740 ILCS 14/15(c).

14 22. BIPA further makes it unlawful for any private entity in possession of a
15 biometric identifier to “disclose, redisclose, or otherwise disseminate a person’s or a customer’s
16 biometric identifier or biometric information unless: (1) the subject of the biometric identifier
17 or biometric information . . . consents to the disclosure or redisclosure; (2) the disclosure or
18 redisclosure completes a financial transaction requested or authorized by the subject of the
19 biometric identifier . . . ; (3) the disclosure or redisclosure is required by State or federal law or
20 municipal ordinance; or (4) the disclosure is required pursuant to a valid warrant or subpoena
21 issued by a court of competent jurisdiction.” 740 ILCS 14/15(d).

22 23. Finally, BIPA provides that “[a] private entity in possession of a biometric
23 identifier or biometric information shall: (1) store, transmit, and protect from disclosure all
24 biometric identifiers and biometric information using the reasonable standard of care within the
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1 private entity's industry; and (2) store, transmit, and protect from disclosure all biometric
2 identifiers and biometric information in a manner that is the same as or more protective than the
3 manner in which the private entity stores, transmits, and protects other confidential and
4 sensitive information.

5 24. BIPA provides for a private right of action: "Any person aggrieved by a
6 violation of this Act shall have a right of action in a State circuit court or as a supplemental
7 claim in federal district court against an offending party." 740 ILCS 14/20.
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9 25. The Illinois Supreme Court has explained that a person whose biometric
10 identifiers are the subject of violations of section 15 of BIPA is "aggrieved" by the entity's
11 failure to comply with BIPA and is "entitled to seek recovery" under Section 14/20.
12 *Rosenbach v. Six Flags Entm't Corp*, 2019 IL 123186, ¶ 33 ("[W]hen a private entity fails to
13 comply with one of section 15's requirements, that violation constitutes an invasion,
14 impairment, or denial of the statutory rights of any person or customer whose biometric
15 identifier or biometric information is subject to the breach. Consistent with the authority cited
16 above, such a person or customer would clearly be 'aggrieved' within the meaning of section
17 20 of the Act (*id.* § 20) and entitled to seek recovery under that provision. No additional
18 consequences need be pleaded or proved. The violation, in itself, is sufficient to support the
19 individual's or customer's statutory cause of action.").

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21 26. Under BIPA, "[a] prevailing party may recover **for each violation**: (1) against a
22 private entity that negligently violates a provision of this Act, liquidated damages of \$1,000 or
23 actual damages, whichever is greater; (2) against a private entity that intentionally or recklessly
24 violates a provision of this Act, liquidated damages of \$5,000 or actual damages, whichever is
25 greater; (3) reasonable attorneys' fees and costs, including expert witness fees and other
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1 litigation expenses; and (4) other relief, including an injunction, as the State or federal court
2 may deem appropriate.” *Id.* (emphasis added).

3 27. Under BIPA, each instance of collecting and/or disclosing a person’s biometric
4 data without consent constitutes a separate violation for which recovery can be had. *See*
5 *Cothron v. White Castle Sys., Inc.*, 477 F. Supp. 3d 723, 732–34 (N.D. Ill. 2020) (“[The
6 statutory] text is unambiguous and therefore dispositive. A party violates Section 15(b) when it
7 collects, captures, or otherwise obtains a person’s biometric information without prior informed
8 consent. This is true the first time an entity scans a fingerprint or otherwise collects biometric
9 information, but it is no less true with each subsequent scan or collection. . . . The language of
10 Section 15(d) requires the same result. . . . [T]he Court is bound by the clear text of the
11 statute [I]t is not the role of a court—particularly a federal court—to rewrite a state statute
12 to avoid a construction that may penalize violations severely. . . . In sum, the Court concludes
13 that [the plaintiff] has alleged multiple timely violations of both Section 15(b) and Section
14 15(d). According to BIPA Section 20, she can recover ‘for each violation.’ 740 ILCS 14/20.”).

17 How Alexa Works

18 28. Alexa devices are designed to record and respond to oral communications upon
19 hearing a “wake word” (usually “Alexa”).

20 29. If the “wake word” is not spoken, Amazon claims that Alexa-enabled devices
21 will not capture a user’s conversations.⁵
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26 ⁵ *Alexa and Alexa Device FAQ’s*, Amazon.com, <https://www.amazon.com/gp/help/customer/display.html?linkCode=w61&imprToken=28-fLy75f7XPVZKlgVB7w&slotNum=0&nodeId=201602230> (last visited July 8, 2021).

1 30. Despite Amazon’s claim that Alexa only captures conversations after hearing
2 the “wake word,” reports and studies have indicated that Alexa-enabled devices frequently
3 capture conversations by accident without being triggered by the “wake word.”⁶

4 31. One group of researchers discovered more than 1,000 sequences of words that
5 incorrectly trigger smart speakers, such as Alexa. For example, Alexa may inadvertently be
6 activated by the words “unacceptable” or “election.”⁷

7 32. Amazon’s “wake word” technology works by identifying acoustic patterns that
8 match the wake word.
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10 33. Once the Alexa device recognizes the acoustical pattern of the wake work, the
11 device captures a voiceprint of the speaker’s oral communication that follows the wake word
12 and transmits the voiceprint to Amazon to undergo a series of steps to process a response using
13 Amazon’s Alexa Voice Service.

14 34. The Alexa Voice Service utilizes Automatic Speech Recognition technology
15 (ASR), whereby computers detect patterns in audio waveforms of the voiceprint, match them
16 with the sounds in a given language, and ultimately identify the words spoken.⁸ This is the first
17 step required for Alexa to respond to a request.
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19 _____
20 ⁶ See, e.g., Tom Warren, *Amazon explains how Alexa recorded a private conversation and sent*
21 *it to another user* (May 24, 2018), [https://www.theverge.com/2018/5/24/17391898/amazon-](https://www.theverge.com/2018/5/24/17391898/amazon-alexa-private-conversation-recording-explanation)
22 [alexa-private-conversation-recording-explanation](https://www.theverge.com/2018/5/24/17391898/amazon-alexa-private-conversation-recording-explanation); Sara Morrison, *Alexa records you more*
23 *often than you think* (Feb. 21, 2020), [https://www.vox.com/recode/2020/2/21/21032140/alexa-](https://www.vox.com/recode/2020/2/21/21032140/alexa-amazon-google-home-siri-apple-microsoft-cortana-recording)
24 [amazon-google-home-siri-apple-microsoft-cortana-recording](https://www.vox.com/recode/2020/2/21/21032140/alexa-amazon-google-home-siri-apple-microsoft-cortana-recording); Matt Day, et al., *Is Anyone*
25 *Listening to You on Alexa? A Global Team Reviews* (Apr. 10, 2019),
26 [https://www.bloomberg.com/news/articles/2019-04-10/is-anyone-listening-to-you-on-alexa-a-](https://www.bloomberg.com/news/articles/2019-04-10/is-anyone-listening-to-you-on-alexa-a-global-team-reviews-audio)
27 [global-team-reviews-audio](https://www.bloomberg.com/news/articles/2019-04-10/is-anyone-listening-to-you-on-alexa-a-global-team-reviews-audio).

28 ⁷ See Lea Schönherr, et al., “Unacceptable, where is my privacy?” *Exploring Accidental*
29 *Triggers of Smart Speakers*, <https://unacceptable-privacy.github.io/> (last visited July 8, 2021);
30 see also Lea Schönherr, et al., “Unacceptable, where is my privacy?” *Exploring Accidental*
31 *Triggers of Smart Speakers* (Aug. 2, 2020), <https://arxiv.org/pdf/2008.00508.pdf>.

32 ⁸ *What Is Automatic Speech Recognition?*, Amazon.com, [https://developer.amazon.com/en-](https://developer.amazon.com/en-US/alexa/alexa-skills-kit/asr)
33 [US/alexa/alexa-skills-kit/asr](https://developer.amazon.com/en-US/alexa/alexa-skills-kit/asr) (last visited Feb. 19, 2020).

1 35. The ASR technology analyzes various features of the user’s voiceprint, such as
2 the micro pauses the speaker takes between words, the frequency, and the speaker’s pitch, in
3 order to convert the voiceprint into a transcribed text string.⁹

4 36. After the ASR analyzes and transcribes the voiceprint, the Alexa Voice Service
5 interprets the text using Natural Language Understanding (NLU), a process that allows Alexa
6 to deduce what a speaker intends, rather than just the words they say.¹⁰

7 37. According to Amazon, NLU works by using prior users’ input: “With NLU,
8 Alexa devices like Amazon Echo can apply learnings from historical interactions, across
9 thousands of diverse applications, to understand that ‘is it raining outside’ and ‘is it going to
10 rain’ are essentially the same question.”¹¹

11 38. After the NLU has determined what the user wants, the Alexa Voice Service
12 compares the transcribed communication to expected commands and, if it finds a match, it
13 follows a set of instructions to retrieve the appropriate information from a designated data
14 source to provide a response to the user in the form of a simple speech markup language
15 (SSML) which informs Alexa how to respond.

16 39. If the NLU does not find a match, it looks for an alternative of what to do based
17 on what information it has.
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22 ⁹ See Joseph Frankel, *How Does My Voice Assistant Know What I’m Saying?* (Apr. 20, 2018),
23 [https://nymag.com/intelligencer/smarthome/make-me-smarter-voice-speech-recognition-alexa-](https://nymag.com/intelligencer/smarthome/make-me-smarter-voice-speech-recognition-alexa-siri-cortana-google.html)
24 [siri-cortana-google.html](https://nymag.com/intelligencer/smarthome/make-me-smarter-voice-speech-recognition-alexa-siri-cortana-google.html); Josh Hendrickson, *Alexa, Siri, and Google Don’t Understand a Word*
25 *You Say* (Feb. 19, 2019) [https://www.howtogeek.com/405011/voice-assistants-dont-really-](https://www.howtogeek.com/405011/voice-assistants-dont-really-understand-you/)
26 [understand-you/](https://www.howtogeek.com/405011/voice-assistants-dont-really-understand-you/); Alexandre Gonfalonieri, *How Amazon Alexa works? Your guide to Natural*
Language Processing (AI) (Nov. 21, 2018), [https://towardsdatascience.com/how-amazon-](https://towardsdatascience.com/how-amazon-alexa-works-your-guide-to-natural-language-processing-ai-7506004709d3)
[alexa-works-your-guide-to-natural-language-processing-ai-7506004709d3](https://towardsdatascience.com/how-amazon-alexa-works-your-guide-to-natural-language-processing-ai-7506004709d3).

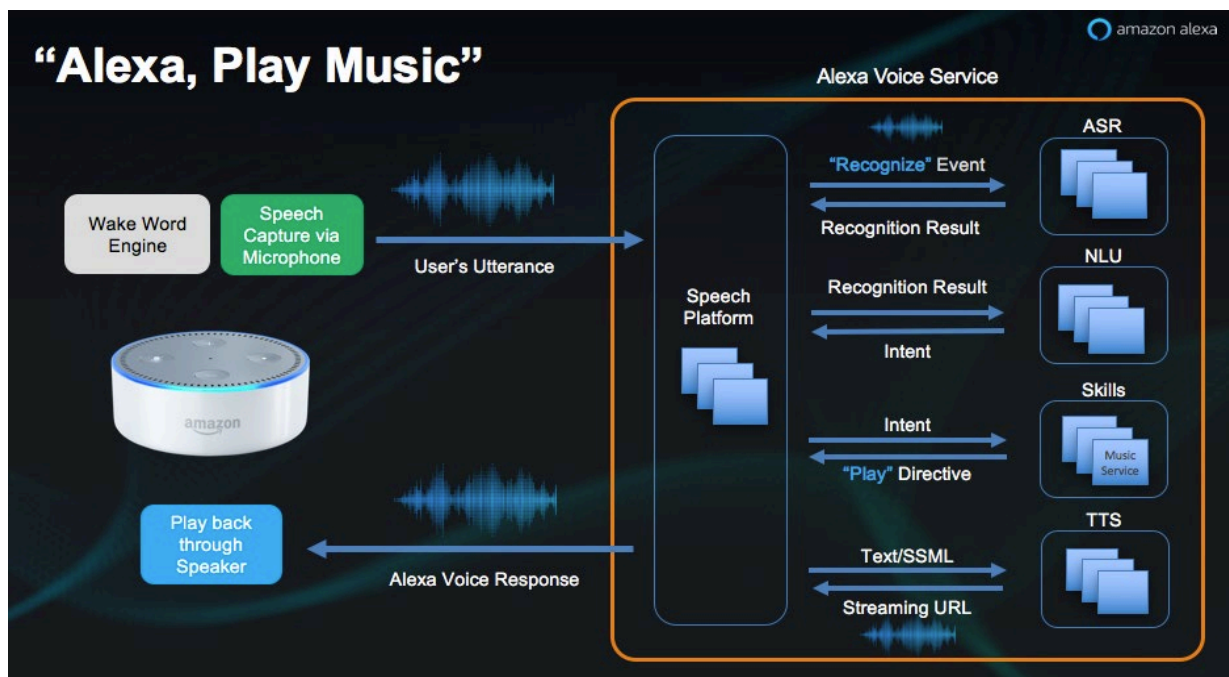
¹⁰ *What Is Natural Language Understanding (NLU)?*, Amazon.com,
<https://developer.amazon.com/en-US/alexa/alexa-skills-kit/nlu> (last visited July 8, 2021).

¹¹ *Id.*

40. Alexa's response system then takes the SSML that was produced, uses a text-to-speech (TTS) system to generate an audio speech file, and streams the audio to the user's device.

41. Generally, Alexa's response ends the interaction, though in some circumstances, Alexa may ask follow-up questions to the user that require answers in order for Alexa to provide a complete response to the user's inquiry. If a follow-up answer is provided, the Alexa device captures the speaker's voiceprint and the Alexa Voice Service repeats the steps described above.

42. The speech capture, Alexa Voice Service, and response process is represented below:



Amazon's Collection, Use, Storage, and Disclosure of Users' Biometric Data

43. After Alexa has responded to a user's request, Amazon does not delete the voiceprint or the transcription created by that request.

1 44. Instead, Amazon captures, collects, and indefinitely retains the voiceprint on its
2 servers for continued use and analysis, in order to, *inter alia*, improve its speech and voice
3 recognition capabilities.

4 45. For years, Amazon represented that the voiceprints were simply streamed to the
5 cloud and used only to allow Alexa to respond to the command and help personalize Alexa's
6 response to a user.

7 46. Amazon has more recently, however, indicated that it stores voiceprints and the
8 transcriptions made from the voiceprints on multiple servers.

9 47. Moreover, Amazon captures, collects, and indefinitely retains the voiceprints of
10 users when Alexa activates by mistakenly "hearing" the wake word.

11 48. All voiceprints from the Amazon customer are associated with the customer's
12 Amazon account.

13 49. Amazon collects, obtains, and stores the voiceprint and transcription created
14 therefrom to improve Alexa via a process known as "machine learning."

15 50. Machine learning only works when the artificial intelligence system underlying
16 it is supported with data, from which the system can learn and develop.

17 51. In Amazon's case, Alexa's machine learning is bolstered by what likely amounts
18 to hundreds of millions, if not billions, of voiceprints that Amazon has stored on its servers,
19 which it uses to constantly refine the natural language understanding that is critical to Alexa's
20 function.

21 52. In addition, according to an article by Bloomberg, Amazon.com, Inc. employs
22 thousands of people around the world, both full-time Amazon employees and third-party
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1 contractors, who listen to voice recordings, have access to voiceprints, and review the
2 transcriptions captured by Amazon's Echo device.¹²

3 53. These Amazon workers transcribe and annotate the aforementioned data as part
4 of an effort to eliminate gaps in Alexa's understanding of human speech and to help it better
5 respond to commands.¹³

6 54. The teams also use internal chat rooms to share audio files "when they need help
7 parsing a muddled word—or come across an amusing recording."¹⁴

8 55. Because of Amazon's collection of voiceprints and transcripts thereof, Amazon
9 has been able to significantly improve all of its voice-based products and services to the point
10 that, in August 2019, Amazon reported that Alexa answered queries accurately 80% of the
11 time, up 19 percentage points from 61% in July 2018.¹⁵

12 56. Once Amazon is in possession of the voiceprint, Amazon employees may access
13 it, and identify the location of the device where it was obtained and other data collected by the
14 Alexa device.

15 57. Upon information and belief, the voiceprint is also aggregated with data from
16 other Amazon sources, such as the user's shopping history, order history, or reminders to create
17 profiles of information for Amazon to utilize for its own business purposes.

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22 ¹² Matt Day, et al., *Is Anyone Listening to You on Alexa? A Global Team Reviews* (Apr. 10,
23 2019), <https://www.bloomberg.com/news/articles/2019-04-10/is-anyone-listening-to-you-on-alexa-a-global-team-reviews-audio>.

24 ¹³ *Id.*

25 ¹⁴ *Id.*

26 ¹⁵ Rayna Hollander, *Amazon is improving the accuracy of Alexa's natural language understanding* (Oct. 11, 2019), <https://www.businessinsider.com/amazon-bolsters-alexa-skill-voice-accuracy-2019-10>.

1 58. Amazon does not delete the voiceprints after they have been used to provide a
2 response. Instead, Amazon stores the voiceprints, which Amazon’s artificial intelligence and
3 human employees then review for Amazon’s business purposes.

4 59. Amazon does not allow a user to stop it from collecting voiceprints. The only
5 way to stop Amazon’s collection of voiceprints is to mute the microphone or deactivate the
6 device, both of which defeat the device’s utility.

7 60. In 2019, Amazon began providing users the ability to delete voice recordings;
8 however, while Amazon’s current policies tell customers that they may delete voice recordings,
9 Amazon is unclear as to whether this deletes all of the voiceprints Amazon has collected and
10 the transcriptions made from those voiceprints.¹⁶

11 61. For instance, Amazon states that even if a customer deletes an audio recording,
12 Amazon, or third-party developers may retain “records of the interaction. For example, for
13 many types of Alexa requests—such as when a customer subscribes to Amazon Music
14 Unlimited, places an Amazon Fresh order, requests a car from Uber or Lyft, orders a pizza
15 from Dominos, or makes an in-skill purchase of premium digital content—Amazon and/or the
16 applicable skill developer obviously need to keep a record of the transaction.”¹⁷

17 62. Moreover, as stated by Theresa Payton, a former White House chief information
18 officer and founder of cybersecurity company Fortalice: “‘Delete’ is never really ‘delete.’”
19 “Delete just means that you can’t see it anymore.”¹⁸

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23 ¹⁶ See Letter from Amazon to Senator Christopher A. Coons;
24 [https://www.coons.senate.gov/imo/media/doc/Amazon%20Senator%20Coons_Response%20](https://www.coons.senate.gov/imo/media/doc/Amazon%20Senator%20Coons_Response%20Letter_6.28.19[3].pdf)
25 [Letter_6.28.19\[3\].pdf](https://www.coons.senate.gov/imo/media/doc/Amazon%20Senator%20Coons_Response%20Letter_6.28.19[3].pdf).

26 ¹⁷ *Id.*

¹⁸ Alfred Ng, *Amazon Alexa transcripts live on, even after you delete voice records* (May 9, 2019), <https://www.cnet.com/home/smart-home/amazon-alexa-transcripts-live-on-even-after-you-delete-voice-records/>.

1 63. Amazon does not, and/or within the Class Period failed to, disclose the
2 following to its users:

- 3 A. that Amazon creates, analyzes, and utilizes a user's voiceprint and that
4 the same is stored on Amazon's servers indefinitely;
5 B. that Amazon creates, analyzes, stores, and utilizes a transcription of a
6 user's request, derived from the aforementioned voiceprint, and stores
7 the same on Amazon's servers indefinitely;
8 C. that human employees and third-party contractors have access to and
9 utilize users' voiceprints and the transcriptions created therefrom, or the
10 extent of such access and use;
11 D. the retention schedule associated with a user's voiceprint and the
12 transcription created from the voiceprint; and
13 E. guidelines for a user to permanently delete all of their voiceprints and the
14 transcriptions made therefrom, from all of Amazon's servers.
15

16
17 64. Furthermore, Amazon collects, captures, stores, and utilizes the voiceprints and
18 transcriptions derived therefrom without receiving executed written releases from any of the
19 users of Alexa-enabled products.

20 65. David Limp, the Senior Vice President of Devices and Services at Amazon.com
21 acknowledged Amazon's inadequate disclosures, and Robert Frederick, former Senior Manager
22 and Amazon Web Services acknowledged that he actually turns off his Alexa devices to
23 prevent private conversations from being shared:
24

25 NARRATOR:

26 Once the device is awake and the blue light is on, it's recording.
 And last year, it was revealed that Amazon employs thousands of

1 people around the world to listen and transcribe some of those
2 recordings to help train the system.

3 JAMES JACOBY [Correspondent]:

4 Do you think that you did a good enough job of disclosing that to
5 consumers? That there are humans involved in listening to these
6 recordings?

7 DAVE LIMP [Amazon Senior Vice President, Devices &
8 Services]:

9 We try to articulate what we're doing with our products as clearly
10 as we can. But if I could go back in time and I could be more
11 clear and the team could be more clear on how we were using
12 human beings to annotate a small percentage of the data, I would,
13 for sure. What I would say, though, is that once we realize that
14 customers didn't clearly understand this, within a couple of days
15 we added an opt-out feature so that customers could turn off
16 annotation if they so chose. And then within a month or two later
17 we allowed people to auto-delete data, which they also asked for
18 within that time frame.

19 We're not going to always be perfect, but when we make
20 mistakes, I think the key is that we correct them very quickly on
21 behalf of customers.

22 NARRATOR:

23 But even one of the founders of Amazon Web Services
24 approaches his Alexa devices with caution.

25 JAMES JACOBY:

26 When do you turn off your Alexa?

ROBERT FREDERICK, Former senior manager, Amazon Web
Services:

I turn off my Alexa when I know for a fact that the conversation
that I am going to have or whenever I just want to have a private
moment. I don't want certain conversations to be heard by
humans, conversations that I know for a fact are not things that

1 should be shared, then I actually turn off those particular listening
2 devices.¹⁹

3 **Plaintiff's Experience**

4 66. Plaintiff is an Amazon Prime member who owns an Amazon Echo equipped
5 with Alexa services.

6 67. On numerous occasions during the Class Period, Plaintiff, an Illinois citizen,
7 spoke to her Alexa device located in her home in Illinois.

8 68. After Plaintiff spoke into the Alexa device, Amazon collected, captured,
9 received through trade, or otherwise obtained and disclosed Plaintiff's voiceprint and
10 transcription thereof.

11 69. Amazon did not obtain written releases from Plaintiff before capturing,
12 collecting, receiving through trade, or otherwise obtaining her biometric identifiers or biometric
13 information in compliance with 740 ILCS 14/15(b)(3).

14 70. On certain occasions, Plaintiff's Alexa device would also light up when Plaintiff
15 spoke words other than the "wake-word."

16 71. Plaintiff's voiceprints are "biometric identifiers" pursuant to 740 ILCS 14/10.

17 72. Transcripts of Plaintiff's voice recordings, which are derived from biometric
18 identifiers, are "biometric information" pursuant to 740 ILCS 14/10.

19 73. Any other data in Amazon's possession that links Plaintiff's voiceprints to
20 Plaintiff also constitutes "biometric information" pursuant to 740 ILCS 14/10.

21 74. As set forth herein, Amazon obtained the biometric identifiers and/or biometric
22 information of Plaintiff and the Class in violation of BIPA.

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24
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26 _____
¹⁹ PBS Frontline.

75. Amazon’s failures to comply with BIPA as set forth herein violated Plaintiff and the Class Members’ privacy rights, and the harm to Plaintiff and the Class occurred in Illinois. *See Cothron*, 477 F. Supp.3d at 732 n.7 (“[T]he privacy concerns are implicated equally whether the new data is sent off-site for comparison or the old data is retrieved from an off-site location so that the comparison can take place on-site.”); *In re Facebook Biometric Info. Privacy Litig.*, 326 F.R.D. 535, 547–48 (N.D. Cal. 2018) (“None of the class members are non-residents suing under Illinois law Contrary to Facebook’s suggestion, the geographic location of its data servers is not a dispositive factor. The functionality and reach of modern online services like Facebook’s cannot be compartmentalized into neat geographic boxes. Making the geographic coordinates of a server the most important circumstance in fixing the location of an Internet company’s conduct would yield the questionable results *Avery* [*v. State Farm Mut. Auto. Ins. Co.*, 216 Ill.2d 100, 185 (Ill. 2005)] counsels against. Among other problematic outcomes, it would effectively gut the ability of states without server sites to apply their consumer protection laws to residents for online activity that occurred substantially within their borders. [Citation.] Correlatively, a single-minded focus on server location would also potentially nationalize the consumer protection laws of states that host servers, which in this case includes California. Both outcomes are fraught with unintended and undesirable consequences.”).

CLASS ACTION ALLEGATIONS

76. Plaintiff brings this class action on behalf of herself and all others similarly situated, as representative of the following class (the “Class”):

All Illinois residents: (a) who own an Amazon Alexa device; and (b) from whom Amazon obtained a voice recording from an Amazon Alexa device located in Illinois during the Class Period.

1 77. Excluded from the Class are any Defendants, its parents, subsidiaries, affiliates,
2 predecessors, successors, officers, directors, and the immediate family members of such
3 persons. Also excluded are any trial judge who may preside over this action, court personnel
4 and their family members and any juror assigned to this action.

5 78. Plaintiff reserves the right to amend or modify the Class definitions with greater
6 specificity or division into subclasses after having had an opportunity to conduct discovery.

7 79. The Class Period is that period within the statute of limitations for this action
8 and extending until a Class is certified herein.

9 80. The Class is certifiable under Fed. R. Civ. P. 23.

10 81. **Numerosity.** The members of the Class are so numerous that joinder of all
11 members is impracticable. The determination of the numerosity factor can be made from
12 Defendants' records.

13 82. **Typicality.** Plaintiff's claims are typical of the claims of the Class Members.
14 Plaintiff and all Class Members have had their rights under BIPA violated based on Amazon's
15 failure to comply with the provisions of BIPA.

16 83. **Commonality and Predominance.** There are questions of law and fact
17 common to the Class, which predominate over any questions affecting individual members of
18 the Class. These common questions of law and fact include, without limitation:

- 19
- 20 a. Whether Amazon collected, captured, received through trade, or
21 otherwise obtained biometric identifiers or biometric information
22 of Plaintiff and the Class;
 - 23 b. Whether Amazon developed, made available to the public and
24 complied with a retention and destruction policy in compliance
25 with 740 ILCS 14/15(a);
- 26

- c. Whether Amazon informed Plaintiff and the Class in writing that it was collecting their biometric identifier or biometric information in compliance with 740 ILCS 14/15(b)(1);
- d. Whether Amazon informed Plaintiff and the Class in writing of the specific purpose and length of term for which it was collecting their biometric identifier or biometric information in compliance with 740 ILCS 14/15(b)(2);
- e. Whether Amazon received written releases executed by Plaintiff and the Class before capturing, collecting, receiving through trade, or otherwise obtaining their biometric identifiers or biometric information in compliance with 740 ILCS 14/15(b)(3);
- f. Whether Amazon sold, leased, traded, or otherwise profited from the biometric identifier or biometric information of Plaintiff and the Class;
- g. Whether Amazon disclosed, redisclosed, or otherwise disseminated the biometric identifier or biometric information of Plaintiff and the Class and whether such disclosure, redisclosure, or dissemination was in compliance with 740 ILCS 14/15(d)(1)-(4);
- h. Whether Amazon stored, transmitted, and protected from disclosure all biometric identifiers and biometric information of Plaintiff and the Class using the reasonable standard of care within the industry in compliance with 740 ILCS 14/15(e)(1);
- i. Whether Amazon stored, transmitted, and protected from disclosure all biometric identifiers and biometric information of Plaintiff and the Class in a manner that is the same as or more protective than the manner in which it stores, transmits, and protects other confidential and sensitive information in compliance with 740 ILCS 14/15(e)(2); and/or
- j. Whether any violations of BIPA by Amazon were reckless, intentional, or negligent.

84. **Adequacy.** Plaintiff is a member of the Class she seeks to represent, is committed to the vigorous prosecution of this action, and has retained competent counsel experienced in the prosecution of class actions. Accordingly, Plaintiff is an adequate representative and will fairly and adequately protect the interests of the Class.

1 85. **Superiority.** A class action is an appropriate method for the fair and efficient
2 adjudication of this controversy and is superior to all other available methods. Because the
3 amount of each individual Class member's claim is small relative to the complexity of the
4 litigation, and due to the financial resources of Defendants, no Class member could afford to
5 seek legal redress individually for the claims alleged herein. Therefore, absent a class action,
6 Class members will continue to suffer losses and Defendants' misconduct will proceed without
7 remedy. Even if Class members could afford such individual litigation, the court system could
8 not. Given the complex legal and factual issues involved, individualized litigation would
9 significantly increase the delay and expense to all parties and to the Court. Individualized
10 litigation would also create the potential for inconsistent or contradictory rulings. By contrast,
11 a class action presents far fewer management difficulties, allows claims to be heard that might
12 otherwise go unheard because of the relative expense of bringing individual lawsuits, and
13 provides the benefits of adjudication, economies of scale, and comprehensive supervision by a
14 single court. Finally, Plaintiff knows of no difficulty that will be encountered in the
15 management of this litigation that would preclude its maintenance as a class action.
16

17
18 86. **Class Action on Limited Issues.** Because there are common individual issues
19 among the Class, it is appropriate for this action to be maintained as a class action with respect
20 to particular issues if necessary. *See* Fed. R. Civ. P. 23(c)(4).
21

22 **CLAIMS FOR RELIEF**

23 **COUNT I**

24 **Amazon's Violations of the Biometric Information Privacy Act, 740 ILCS 14/15(a)**

25 87. Plaintiff incorporates by reference each and every allegation set forth above.

26 88. Amazon qualifies as a "private entity" under BIPA. 740 ILCS 14/10.

1 89. On numerous occasions during the Class Period, Amazon has collected,
2 captured, received through trade, or otherwise obtained Plaintiff's and the Class Members'
3 voiceprints and transcriptions thereof.

4 90. For some or all of the Class Period, Amazon did not develop a written policy,
5 made available to the public, establishing a retention schedule and guidelines for permanently
6 destroying biometric identifiers and biometric information to occur by the earlier of: (a) when
7 the original purpose for collecting or obtaining such identifiers has been satisfied, or (b) within
8 3 years of the individual's last interaction with the private entity, as required by 740 ILCS
9 14/15(a).

10 91. To the extent Amazon has had such a retention and destruction policy in place
11 that complies with BIPA, its failure to permanently delete Plaintiff and the Class' biometric
12 identifiers and/or biometric information in compliance with such policy constitutes a violation
13 of 740 ILCS 14/15(a).

14 92. In violating BIPA, a law in effect since 2008, Amazon acted, and continues to
15 act, recklessly and/or intentionally. At the least, Amazon negligently violated BIPA.

16 93. Plaintiff and the Class Members are "aggrieved" under BIPA based on
17 Amazon's violation of their rights under BIPA, and accordingly are entitled to seek damages
18 and relief provided for under the statute. *See Rosenbach*, 2019 IL 123186, ¶ 40.

19 94. Plaintiff and the Class Members seek, *inter alia*, statutory damages of \$5,000
20 per intentional or reckless violation of BIPA pursuant to 740 ILCS 14/20(2), statutory damages
21 of \$1,000 per negligent violation of BIPA pursuant to 740 ILCS 14/20(1), and reasonable
22 attorneys' fees and costs pursuant to 740 ILCS 14/20(3).
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1 WHEREFORE, Plaintiff and the Class pray for the relief requested in the Prayer for
2 Relief set forth below.

3 **COUNT II**

4 **Amazon's Violations of the Biometric Information Privacy Act, 740 ILCS 14/15(b)**

5 95. Plaintiff incorporates by reference each and every allegation set forth above.

6 96. Plaintiff and the Class did not execute a written release related to Amazon's
7 collection, capturing, purchasing, receiving through trade, or otherwise obtaining their
8 voiceprints, transcriptions thereof, or other biometric information derived from the voiceprints.
9

10 97. For some or all of the Class Period, Amazon did not properly inform Plaintiff
11 and the Class in writing that their biometric identifiers and/or biometric information was being
12 collected and/or stored, nor did it inform them in writing of the specific purpose and length of
13 term for which their biometric identifiers and/or biometric information was being collected,
14 stored, and used as required by 740 ILCS 14/15(b)(1)-(2).
15

16 98. For some or all of the Class Period, Amazon systematically and intentionally
17 collected, obtained, used, and/or stored the biometric identifiers and/or biometric information
18 of Plaintiff and the Class without first obtaining from Plaintiff and the Class Members the
19 specific executed written release required by 740 ILCS 14/15(b)(3).

20 99. In violating BIPA, a law in effect since 2008, Amazon acted, and continues to
21 act, recklessly and/or intentionally. At the least, Amazon negligently violated BIPA.
22

23 100. Plaintiff and the Class Members are "aggrieved" under BIPA based on
24 Amazon's violation of their rights under BIPA, and accordingly are entitled to seek damages
25 and relief provided for under the statute. *See Rosenbach*, 2019 IL 123186, ¶ 40.
26

1 101. Plaintiff and the Class Members seek, *inter alia*, statutory damages of \$5,000
2 per intentional or reckless violation of BIPA pursuant to 740 ILCS 14/20(2), statutory damages
3 of \$1,000 per negligent violation of BIPA pursuant to 740 ILCS 14/20(1), and reasonable
4 attorneys' fees and costs pursuant to 740 ILCS 14/20(3).

5 WHEREFORE, Plaintiff and the Class pray for the relief requested in the Prayer for
6 Relief set forth below.

7
8 **COUNT III**

9 **Amazon's Violations of the Biometric Information Privacy Act, 740 ILCS 14/15(c)**

10 102. Plaintiff incorporates by reference each and every allegation set forth above.

11 103. As set forth above, for some or all of the Class Period, Amazon used the
12 biometric identifiers and/or biometric information of Plaintiff and the Class to improve Alexa's
13 natural language understanding and for its own commercial purposes.

14 104. Amazon's use of the biometric identifiers and biometric information of Plaintiff
15 and the Class to improve Alexa's natural language understanding, expand the scope of Alexa
16 products, and create other business opportunities for Amazon has benefited Amazon through
17 increased sales of its improved voice-recognition products.

18 105. For instance, Amazon has utilized the biometric identifiers and/or biometric data
19 to make Alexa compatible with over 100,000 products. Without the identified biometric data,
20 there would be fewer, and worse-functioning Alexa products for Amazon to profit from.

21 106. Moreover, Amazon has profited from linking the voiceprints in their possession
22 to Plaintiff and the Class's accounts and other activities involving Amazon.

23 107. As Shoshanna Zuboff, author of "The Age of Surveillance Capitalism," puts it:
24 "[Amazon] is going to know more about you than anyone knows. They're trying to move as
25
26

1 intimately as possible and as quietly as possible into everyday life. Amazon wants to have the
2 entire environment essentially miked. They want your walk in the park, they want your run
3 down the city street. They want what you do in your car, they [want] what you do in your
4 home. All these intimacies, all this insight is being integrated—analyzed and integrated. That
5 is an extraordinary kind of power that has never existed before.”²⁰

6 108. Furthermore, Amazon has used the biometric identifiers and biometric
7 information of Plaintiff and the Class to create technology that is so intertwined with the
8 biometric data that marketing the Alexa technology is essentially disseminating biometric data
9 for profit.

11 109. Additionally, Amazon has used the biometric identifiers and biometric
12 information of Plaintiff and the Class to obtain a competitive advantage over other businesses
13 offering similar devices that provide similar voice-based services as Amazon.

14 110. Accordingly, Amazon violated 740 ILCS 14/15(c) by selling, leasing, trading, or
15 otherwise profiting from Plaintiff’s and Class Members’ biometric identifiers and/or biometric
16 information in its possession.

18 111. In violating BIPA, a law in effect since 2008, Amazon acted, and continues to
19 act, recklessly and/or intentionally. At the least, Amazon negligently violated BIPA.

20 112. Plaintiff and the Class Members are “aggrieved” under BIPA based on
21 Amazon’s violation of their rights under BIPA, and accordingly are entitled to seek damages
22 and relief provided for under the statute. *See Rosenbach*, 2019 IL 123186, ¶ 40.

24 113. Plaintiff and the Class Members seek, *inter alia*, statutory damages of \$5,000
25 per intentional or reckless violation of BIPA pursuant to 740 ILCS 14/20(2), statutory damages

26 _____
²⁰ PBS Frontline.

1 of \$1,000 per negligent violation of BIPA pursuant to 740 ILCS 14/20(1), and reasonable
2 attorneys' fees and costs pursuant to 740 ILCS 14/20(3).

3 WHEREFORE, Plaintiff and the Class pray for the relief requested in the Prayer for
4 Relief set forth below.

5 **COUNT IV**

6 **Amazon's Violations of the Biometric Information Privacy Act, 740 ILCS 14/15(d)**

7 114. Plaintiff incorporates by reference each and every allegation set forth above.

8 115. As set forth above, Amazon employs thousands of individuals around the world,
9 including both full-time Amazon employees and third-party contractors, who have access to
10 and listen to voiceprints and review the transcriptions captured by Amazon's devices.

11 116. Thus, for some or all of the Class Period, Amazon disclosed, redisclosed, or
12 otherwise disseminated Plaintiff's and the Class Members' biometric identifiers and
13 information to third parties.

14 117. Amazon's disclosed, redisclosed, or disseminated Plaintiff's and the Class
15 Members' biometric identifiers and information without satisfying the requirements of 740
16 ILCS 14/15(d). Specifically, Amazon has never informed nor received consent from Plaintiff
17 or the Class Members to disclose and/or redisclose their biometric identifiers and biometric
18 information to third parties; the disclosure or redisclosure did not complete a financial
19 transaction authorized by the subject; and the disclosure or redisclosure was not required by
20 law or pursuant to a valid warrant or subpoena.

21 118. In violating BIPA, a law in effect since 2008, Amazon acted, and continues to
22 act, recklessly and/or intentionally. At the least, Amazon negligently violated BIPA.
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1 119. Plaintiff and the Class Members are “aggrieved” under BIPA based on
2 Amazon’s violation of their rights under BIPA, and accordingly are entitled to seek damages
3 and relief provided for under the statute. *See Rosenbach*, 2019 IL 123186, ¶ 40.

4 120. Plaintiff and the Class Members seek, *inter alia*, statutory damages of \$5,000
5 per intentional or reckless violation of BIPA pursuant to 740 ILCS 14/20(2), statutory damages
6 of \$1,000 per negligent violation of BIPA pursuant to 740 ILCS 14/20(1), and reasonable
7 attorneys’ fees and costs pursuant to 740 ILCS 14/20(3).
8

9 WHEREFORE, Plaintiff and the Class pray for the relief requested in the Prayer for
10 Relief set forth below.

11 **COUNT V**

12 **Amazon’s Violations of the Biometric Information Privacy Act, 740 ILCS 14/15(e)**

13 121. Plaintiff incorporates by reference each and every allegation set forth above.

14 122. For some or all of the Class Period, Amazon has failed to store, transmit, and
15 protect from disclosure the biometric identifiers and/or biometric information of Plaintiff and
16 the Class using the reasonable standard of care within the industry, in violation of 740 ILCS
17 14/15(e)(1).
18

19 123. Additionally, for some or all of the Class Period, Amazon has failed to store,
20 transmit, and protect from disclosure the biometric identifiers and/or biometric information of
21 Plaintiff and the Class in a manner that is the same as or more protective than the manner in
22 which the private entity stores, transmits, and protects other confidential and sensitive
23 information.
24

25 124. For example, as set forth above, Amazon permits its employees and third-party
26 contractors to disseminate biometric data simply because they find it “amusing.”

1 125. In violating BIPA, a law in effect since 2008, Amazon acted, and continues to
2 act, recklessly and/or intentionally. At the least, Amazon negligently violated BIPA.

3 126. Plaintiff and the Class Members are “aggrieved” under BIPA based on
4 Amazon’s violation of their rights under BIPA, and accordingly are entitled to seek damages
5 and relief provided for under the statute. *See Rosenbach*, 2019 IL 123186, ¶ 40.

6 127. Plaintiff and the Class Members seek, *inter alia*, statutory damages of \$5,000
7 per intentional or reckless violation of BIPA pursuant to 740 ILCS 14/20(2), statutory damages
8 of \$1,000 per negligent violation of BIPA pursuant to 740 ILCS 14/20(1), and reasonable
9 attorneys’ fees and costs pursuant to 740 ILCS 14/20(3).

10 WHEREFORE, Plaintiff and the Class pray for the relief requested in the Prayer for
11 Relief set forth below.

12
13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff, on behalf of herself and the Class, pray for judgment against
15 Defendants as follows:

- 16
17 A. entering an order certifying the Class as requested herein and appointing
18 the undersigned as lead counsel for the Class;
19 B. awarding statutory damages of \$5,000 for each willful and/or reckless
20 violation of BIPA pursuant to 740 ILCS 14/20(2), or, in the alternative,
21 statutory damages of \$1,000 for each negligent violation of BIPA
22 pursuant to 740 ILCS 14/20(1);
23 C. enjoining Amazon from collecting, obtaining, storing, using, selling,
24 leasing, trading, profiting from, disclosing, redisclosing, or otherwise
25
26

1 disseminating Plaintiff's and the Class's biometric identifiers until done
2 so in compliance with BIPA;

3 D. awarding Plaintiff her reasonable attorneys' fees, costs, and other
4 expenses pursuant to 740 ILCS 14/20(3);

5 E. awarding Plaintiff pre-judgment and post-judgment interest, as provided
6 by law; and

7 F. awarding such other and further relief as is just and appropriate.
8

9 **JURY DEMAND**

10 Plaintiff demands a trial by jury on all claims so triable.
11

12
13 Dated this 9th day of July, 2021.

Respectfully submitted,

14 **TOUSLEY BRAIN STEPHENS PLLC**

15 By: /s/ Jason T. Dennett

16 /s/ Cecily C. Shiel

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